

HAWAII ADMINISTRATIVE RULES

TITLE 2

OFFICE OF THE LIEUTENANT GOVERNOR

SUBTITLE 4 ELECTIONS

CHAPTER 51

VOTING

Subchapter 1 General Provisions

- §2-51-1 Definitions.
- §§2-51-2 to 2-51-9 (Reserved)

Subchapter 2 Voter Education

- §2-51-10 Purpose.
- §2-51-11 Voter pamphlet.
- §2-51-12 Election equipment loans.
- §§2-51-14 to 2-51-19 (Reserved)

Subchapter 3 Voter Registration

- §2-51-20 Voter registration form.
- §2-51-21 Voter registration form; distribution.
- §2-51-22 Voter registration form; collection.
- §2-51-23 Voter registration form; reproduction.
- §2-51-24 Clerk's approval; when voter becomes registered.
- §2-51-25 Determination of residence.
- §2-51-26 Confirmation of residence; questionable address procedure.
- §2-51-27 Transfer or change of registration initiated by the voter.
- §2-51-28 Transfer or change of registration initiated by the clerk.
- §2-51-29 Voter registration forms; distribution by other persons or organizations.
- §2-51-30 Confidential registration; law enforcement persons.
- §2-51-31 Voter registration information; prohibited uses.

§§2-51-32 to 2-51-39 (Reserved)

Subchapter 4 Voter Challenges And Appeals

- §2-51-40 Prerequisites for challenge.
- §2-51-41 Grounds for challenge.
- §2-51-42 Challenge prior to election day; procedure.
- §2-51-43 Appeal to the board prior to election day.
- §2-51-44 Challenge at the polling place on election day; procedure.
- §2-51-45 Appeal to the board from decision at the polling place.
- §2-51-46 Challenge to confidential registration; special procedure.
- §2-51-47 Correction of errors; appeal to the board of registration from clerk's ruling.
- §§2-51-48 to 2-51-49 (Reserved)

Subchapter 5 Political Parties

- §2-51-50 Political parties; qualification.
- §2-51-51 Party petitions; issuing.
- §2-51-52 Party petitions; withdrawal of signatures.
- §2-51-53 Party petitions; qualification of signatories.
- §2-51-54 Party petitions; verification of signatories.
- §§2-51-55 to 2-51-59 (Reserved)

Subchapter 6 Precinct Officials And Watchers

- §2-51-60 Precinct officials; selection.
- §2-51-61 Precinct officials; gifts and gratuities prohibited.
- §2-51-62 Precinct officials; confidentiality of voter information.
- §2-51-63 Precinct officials procedure; campaign activities.
- §2-51-64 Non-campaign activity within prescribed area of polling place; time, place, and manner.
- §2-51-65 Poll watcher; guidelines.
- §§2-51-66 to 2-51-69 (Reserved)

Subchapter 7 Ballot Printing And Delivery

- §2-51-70 Candidate vacancies; filling of by party.
- §2-51-71 Official ballots; punchcard ballot system.
- §2-51-72 Ballots; delivery; seal certification
procedure; delivery and collection team.
- §2-51-73 Ballots; transportation and receipt at
polling places.
- §2-51-74 Ballots; receipt by clerks; procedure.
- §2-51-75 Receipt of materials other than ballots.
- §§2-51-76 to 2-51-79 (Reserved)

Subchapter 8 Voting Procedures At Polling Places

- §2-51-80 Paper ballots; voting procedure at polls.
- §2-51-81 Paper ballots; spoiled ballots.
- §2-51-82 Punchcard ballots; demonstration ballots.
- §2-51-83 Punchcard ballots; voting procedure at
polls.
- §2-51-84 Punchcard ballots; spoiled ballots; primary
or special primary election.
- §2-51-85 Punchcard ballots; spoiled ballots; special,
general, or special general.
- §2-51-86 Punchcard ballots; collection.
- §2-51-87 Punchcard ballots; return of polling place
materials.
- §2-51-88 Postponement of elections; natural disaster.
- §2-51-89 (Reserved)

Subchapter 9 Vote Disposition

- §2-51-90 Paper ballots; counting ballots at precinct.
- §2-51-91 Paper ballots; tally sheet; results of votes
cast; ballots; and records.
- §2-51-92 Punchcard ballots; counting center
procedures.
- §2-51-93 Punchcard ballots; receipt at counting
center.
- §2-51-94 Punchcard ballots; inspection of ballots at
counting center.
- §2-51-95 Punchcard ballots; preparation of ballots at
counting center.
- §2-51-96 Punchcard ballots; duplication procedures.
- §2-51-97 Punchcard ballots; auditing procedure.
- §2-51-98 Punchcard ballots; counting ballots at
polling place.

§2-51-99 Direct recording electronic. (Reserved)
§2-51-100 (Reserved)
§2-51-101 Challenged voter's ballot; disposition of at
counting center.
§2-51-102 Election results; certification of.
§§2-51-103 to 2-51-109 (Reserved)

Subchapter 10 Presidential Petitions

§2-51-110 Presidential petitions; issuing.
§2-51-111 Presidential petitions; withdrawal of
signatures.
§2-51-112 Presidential petitions; qualification of
signatories.
§2-51-113 Presidential petitions; verification of
signatories.
§§2-51-114 to 2-51-129 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§2-51-1 Definitions. Unless the context
indicates otherwise, as used in chapters 2-51 to 2-54:

"Absentee ballot" means a ballot used in absentee
voting.

"Absentee polling place" means a polling place
designated for the conduct of absentee walk-in voting
prior to election day.

"ACRA form" means the address confirmation and
reregistration affidavit signed and mailed by the
absentee voter to certify his legal residence address,
to reregister after being purged for failing to vote,
or to update other voter registration information.

"Affirmation statement" means a statement on the
mail absentee return envelope which the voter
subscribes to affirming that the voter requested an
absentee ballot, is a resident of the district and
precinct in which the voter is registered, and is
entitled to vote an absentee ballot.

"Argument" means a statement that complies with the requirements of chapter 2-51 that is either in favor of or opposed to a ballot question.

"Ballot" as defined in HRS §11-1.

"Ballot box" means a securable container in which an election official deposits the voted ballots and which is used to transport voted ballots to the counting center.

"Ballot holder" means a container in which the voter places the selected ballot or voted ballot to maintain the secrecy of the selected or voted ballot until it is deposited in the secured ballot box.

"Ballot packet" means the envelope containing all the punchcard ballots used by a voter at a primary or special primary election.

"Ballot question" means any proposed state constitutional amendment, county charter amendment, proposed initiative, or referendum issue that has qualified for placement on the ballot pursuant to HRS §11-112 and which is posed in the form of a question.

"Ballot seal control form" means a consolidated multicopy form used for the control of ballots from the packing phase through the distribution and collection phase, and provides a record of seals used to secure a ballot transport container, a precinct can, or a ballot box.

"Ballot selection booth" means a self-standing enclosure in which a voter selects a party or nonpartisan ballot during the primary election.

"Ballot transport container" means a container used by the chief election officer or the clerk to transport ballots.

"Board" means the board of registration.

"Candidate" means an individual who seeks nomination for election, or election to office as provided in HRS §11-191, or an individual who has qualified for placement on the ballot in a selected district.

"Challenged ballot" means the ballot of a voter whose right to vote has been questioned by another registered voter and is appealed to the board of registration or the Supreme Court.

"Chief election officer" means the lieutenant governor of the state of Hawaii.

"Clerk" means the respective county clerk for the county of Hawaii, Maui (includes the county of Kalawao), Kauai, and the city and county of Honolulu.

"Closing of the register" means the date for the closing of the general county register in accordance with HRS §11-24.

"Confirmation notice" means the voter notification and address confirmation card, letter, or other form of correspondence used to verify voter registration information and to notify the voter of the voter's election district, precinct, and polling place.

"Counting center" means the facilities and surrounding premises designated by the chief election officer or clerk where ballots or other electronic voting system votes are processed, counted, and tabulated.

"Daily reconciliation of absentee ballots issued form" means the form used to provide a daily accounting of absentee ballots issued from the inventory of ballots assigned to the clerk of each county.

"DC Team" means the delivery and collection team consisting of a chairperson, an assistant, and a driver, who together are responsible for the delivery of sealed ballot transport containers and precinct cans to the polling places, and the collection of sealed ballot boxes and precinct cans from the polling places and delivery to the counting center.

"Defective ballot" means any ballot delivered to the counting center that cannot be read by the ballot reading device.

"Demonstration ballot" means a ballot used solely for the purpose of practice voting with a voting device.

"Direct recording electronic voting system" means the method of electronically recording and tabulating votes.

"Discard box" means a container in which the discarded primary election ballots are placed by an election official.

"Discarded ballot" means an unselected ballot which a voter discards prior to voting in a primary or special primary election.

"District" means representative district.

"Duplicate ballot" means a card that, while having the same length, width, and thickness as a ballot, contains no names of candidates or ballot questions, and is used solely for the purpose of creating a facsimile of a defective ballot that is reproduced for tabulation.

"Electronic voting system" means any method of recording votes which are counted by automatic tabulating equipment.

"General county register" means the list of registered voters maintained by the clerk that is available for inspection and use pursuant to HRS §11-14.

"Hawaiian" means a person of Hawaiian ancestry as defined in HRS §11-1.

"HRS" means Hawaii Revised Statutes.

"Invalid absentee ballot" means an absentee ballot which does not meet the requirements for a ballot to be counted as listed in HRS §15-9.

"Law enforcement person" means a federal, state, or local police, parole, probation, correction, federal agent, prosecutor, judge, or other person duly appointed to enforce any federal, state, or county law.

"Lid lock" means a metal device used to cover the opening of a ballot box to prevent the unauthorized insertion or removal of voted ballots.

"Mail absentee return envelope" means the envelope used by an absentee voter to return the secret ballot envelope to the clerk.

"Manual audit" means a procedure by which manual counts of voted ballots from randomly selected precincts are checked against the computer results.

"Mark" means a handwritten "X", "+", or "√", or a punched hole in the voting position block next to a candidate's name or a ballot question indicating the voter's choice or vote or a signature of an illiterate or physically disabled voter.

"Official observer" means an individual designated by the chief election officer or the clerk to observe the election process in the counting center.

"OHA" means Office of Hawaiian Affairs.

"Pamphlet" means the voter information pamphlet.

"Paper ballot system" means the method of recording votes which are counted manually in accordance with HRS §§16-21 to 16-29.

"Political committee" means any individual, organization, or association defined in HRS §11-191.

"Political party" means any party which satisfies the requirements of HRS §11-61.

"Polling place" means a structure designated by the chief election officer or the clerk as the location in which a precinct conducts absentee or regular voting on election day.

"Precinct can" means a securable container used to transport any and all sensitive election materials that require security.

"Precinct chairperson" means the person designated to manage the operation of an absentee or regular polling place on election day.

"Precinct officials" means a chairperson and other officials designated by the chief election officer or

the clerk to serve in an absentee or regular polling place on election day in accordance with HRS §11-72.

"Precinct supply box" means a box used to hold supplies, signs, and other nonsensitive polling place materials.

"Punchcard ballot voting system" means the method of mechanically recording votes which are counted by automatic tabulating equipment on an IBM 5081 or equivalent data card.

"Questionable ballot" means a paper ballot deemed questionable because of improper voting or other reasons provided in HRS §16-26.

"Questionable AB ballot" means a voted ballot received in a mail absentee return envelope where the envelope is torn, taped, or shows signs of tampering, and where the secret ballot envelope is not used or not properly sealed.

"RAF" means the registration affidavit form completed and signed by a voter on election day for the purpose of registering to vote, to register after failing to vote, to certify the voter's legal residence address, or to update other voter information.

"Result of votes cast form" means the form used to record the totals of votes cast for each candidate and ballot question.

"Seal" means a serially numbered nonreusable lock.

"Secrecy ballot" means a ballot card used in a primary election that does not list any candidate or ballot question and which is used to protect the secrecy of a voter's vote.

"Secret ballot envelope" means the envelope used by a voter to enclose the voted absentee ballot when voting by a mail absentee ballot or at the precincts.

"Selected district" means the district or districts selected by the chief election officer for purposes of voter education.

"Self-subscribing oath" means the oath or affirmation in the voter registration form to be signed by an applicant to affirm the truth of the allegations contained in the voter registration form.

"Service bureau" means a firm registered to do business in the state and whose principle business is furnishing data processing services.

"Spoiled ballot" means a ballot marked incorrectly by the voter, is misprinted, is illegibly printed, or contains some other defect.

"Tabulation sheet" means the sheet used to record the totals shown on the result of votes cast form.

"Tally sheet" means the sheet used to record the number of votes cast for each candidate or ballot question.

"Turnout" means the total number of voters at an election as determined by the number of ballot cards tabulated by the computer or of paper ballots counted by the precinct officials, and shall include ballots that are blank or ballots that are rejected during tabulation for any reason; provided that when there is more than one ballot card issued to each voter, "turnout" means the total count of the candidate ballot card tabulated by the computer.

"Utility envelope" means the envelope into which a voter places a spoiled or challenged ballot.

"Voter information pamphlet" means a publication issued by the chief election officer or clerk featuring information on candidates or ballot issues, or both to appear on the ballot at an upcoming primary, general, special primary, special general, or special election.

"Voter registration form" means the affidavit on application for voter registration or other form prescribed by the chief election officer for voter registration or reregistration purposes.

"Votes cast" means, unless otherwise specified, the actual number of votes tallied for a candidate or for or against a ballot question.

"Voting booth" means an enclosure in which voters punch or mark their ballots for voting purposes.

"Voting device" means an instrument authorized by the chief election officer or clerk for use in the punching or marking of a ballot for voting purposes.

"Voting unit" means a subdivision established in a precinct to facilitate the voting process at the polling place.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-1, 11-191, 15-1, 16-21, 16-41)

Historical note: §2-51-1 is based substantially upon §2-34-1 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996] and 2-34-2 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996]

§§2-51-2 to 2-51-9 (Reserved).

SUBCHAPTER 2

VOTER EDUCATION

§2-51-10 Purpose. The chief election officer may establish voter education programs, including publishing voter information pamphlets, conducting voter awareness media campaigns, and employing other voter information methods deemed appropriate by the chief election officer.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-2, 11-4) (Imp: HRS §11-2)

§2-51-11 Voter pamphlet. (a) The chief election officer or the clerk may produce a voter information pamphlet.

(b) The chief election officer or clerk may select the district or districts to be covered by the voter information pamphlet. The pamphlet may be made available, by mail or other methods, to households within the selected district with one or more registered voters.

(c) A photograph and statement from each candidate who qualifies for the ballot in the selected

district or districts may be included in the pamphlet; provided that the candidate submits the appropriate photograph or statement, or both, before the deadline established by the chief election officer.

- (1) The voter information pamphlet may include a candidate's information section that may include the following photograph and information to be provided by the candidate:
 - (A) A black and white photograph of the face or head and shoulders of the candidate; provided that the chief election officer may further prescribe the dimensions of such photograph;
 - (B) The candidate's name, campaign headquarter address and telephone number, party affiliation or nonpartisanship in partisan elections, the office for which the candidate is running, and the district or districts in which the election is being held; and
 - (C) A statement, not to exceed two hundred fifty words, which may include personal background, the candidate's platform, endorsements, or other information related to the candidate's candidacy.
- (2) The candidate shall sign a self-subscribing oath or affirmation attesting to the truth of the statements provided. False statements may be punishable under HRS Chapter 19.
- (3) Based upon the candidate's oath or affirmation, the chief election officer may rely upon the information provided by the candidate for the pamphlet.
- (4) The respective candidate's photograph and statement shall appear in the pamphlet in the same order that they will appear on the ballot in accordance with HRS §11-115.
- (d) The chief election officer or the clerk may decide not to include a candidate's photograph or statement in the voter information pamphlet under the following circumstances:
 - (1) Statements exceeding two hundred fifty words shall be truncated, beginning with the elimination of the sentence that contains the two hundred fifty-first word;
 - (2) Language or statements that may be considered obscene or defamatory shall not be printed;

- (3) The chief election officer or the clerk may edit statements for format but not language if the typeset statement would exceed the space allotted in the pamphlet layout; and
- (4) If the candidate does not submit a statement or photograph, or both, before the deadline established by the chief election officer or the clerk, the pamphlet may indicate "No statement submitted" or "No photograph submitted."

(e) The pamphlet may include the verbatim language of every question authorized to appear on the ballot in the district or districts selected.

(f) The pamphlet may also include one argument in favor of and one argument opposed to each ballot question; provided that the arguments are submitted before the deadline established by the chief election officer or the clerk. The arguments shall be submitted according to the following:

- (1) If the measure originated in the legislature or county council, one legislative proponent and one legislative opponent, to be chosen by the presiding officer of the chamber of origin, will be given the first opportunity to prepare the arguments; or
- (2) If the measure originated by petition, one proponent and one opponent may submit an argument.

(g) The chief election officer or the clerk may decide not to include arguments regarding ballot issues in the voter information pamphlet that are deceptive or misleading and may be limited under the following circumstances:

- (1) Arguments exceeding two hundred fifty words shall be truncated, beginning with the elimination of the sentence that contains the two hundred fifty-first word;
- (2) Language or arguments that are considered obscene or defamatory shall not be printed;
- (3) The chief election officer may edit arguments for format but not language if the typeset argument would exceed the space allotted in the pamphlet layout; and
- (4) If the arguments have not been submitted in conformance with this section, the pamphlet may state "No argument submitted."

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-2)

§2-51-12 Election equipment loans. (a) The chief election officer or clerk may establish a program to authorize the use of any available election equipment by schools or community organizations at no cost. The chief election officer or clerk may charge a school or community organization for applicable shipping and delivery charges and for the repair or replacement of equipment damaged by the school or community organization.

(b) The following election equipment may be made available: voting devices, ballot holders, voting booths, ballot booths, ballot box seals, blank ballots, and ballot format worksheets.

(c) The equipment may be available from the Election Services Division and may be available from a satellite school designated by the chief election officer or clerk.

(d) Schools designated as satellite schools under this program shall assign a coordinator who will be the point of contact and who will assume the responsibility for the storage of the election equipment.

(e) The chief election officer or clerk may make blank ballots available to organizations and may also print the ballots for the organization. Ballots printed by the Election Services Division shall be printed by procedures adopted by the chief election officer. The ballots shall not replicate official election ballots.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 16-3)
(Imp: HRS §11-2)

§§2-51-14 to 2-51-19 (Reserved).

SUBCHAPTER 3

VOTER REGISTRATION

Historical note: Chapter 2-51, Subchapter 3, is based substantially upon Chapter 2-34 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996]

§2-51-20 Voter registration form. (a) The affidavit on the application for voter registration

form shall be in a form prescribed and approved by the chief election officer.

- (b) The voter registration form shall include:
 - (1) A place for the applicant's name, social security number, date of birth, residence address or a description of the location of the residence, and mailing address;
 - (2) A statement that the residence stated in the voter registration form is not simply because of the applicant's presence in Hawaii, but that the residence was acquired with the intent to make Hawaii the applicant's legal residence with all the accompanying obligations therein;
 - (3) A statement that the applicant is a U.S. citizen;
 - (4) A statement that the applicant is at least sixteen years of age at the time of completing the registration form;
 - (5) In the case of OHA voters, a statement that the applicant is Hawaiian as defined in HRS §11-1;
 - (6) A self-subscribing oath that the applicant is swearing or affirming to the truth of the information given in the affidavit;
 - (7) A space for the signature of a witness when the applicant is unable to write for reason of illiteracy, blindness, or other physical disability; and
 - (8) A statement which says that the office, site, or location at which an applicant registers to vote, or the declination on the part of the applicant to register to vote will remain confidential and will be used for voter registration purposes only.

(c) The voter registration form may also include other information deemed appropriate by the chief election officer including but not limited to:

- (1) A space for the applicant's telephone number;
- (2) If the applicant was previously registered in a state other than Hawaii, an authorization by the applicant to cancel the applicant's previous voter registration;
- (3) A statement notifying applicants of the penalty for falsifying information on the voter registration form or for falsifying the self-subscribing oath;

- (4) A statement regarding voting by persons convicted of a felony; and
 - (d) The following forms shall also be accepted for voter registration:
 - (1) Federal Postcard Application; and
 - (2) any other form prescribed by the National Voter Registration Act.
- [Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-15, 11-16) (Imp: HRS §11-15)

§2-51-21 Voter registration forms; distribution.

(a) Voter registration forms shall be available at the offices of the county clerk and the chief election officer.

(b) Voter registration forms shall be made available at the time of the driver license application or renewal through the examiner of drivers pursuant to HRS §286-108.

(c) The chief election officer shall designate state government agencies that provide public assistance and state funded agencies that provide service to persons with disabilities as voter registration agencies.

(d) Voter registration forms shall be available at federal, state, and county agency offices and other locations specified by law.

(e) Forms may also be distributed in accordance with procedures established by the chief election officer or clerk.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-15, 11-16, 286-108)

§2-51-22 Voter registration forms; collection.

(a) Voter registration forms of new voters shall be received by the clerk no later than 4:30 p.m. on the day of the closing of the register for the election for which the applicant seeks to be registered. Voter registration forms received after the closing of the register for an election shall not be valid for that election and shall be processed by the clerk to register the applicant for the next election.

(b) Applicants shall submit completed voter registration forms:

- (1) At drop off points designated by the chief election officer or clerk; provided that only designated representatives of the clerk shall

be authorized to collect voter registration forms;

- (2) By delivering the completed voter registration form to the clerk or to designated representatives of the clerk; or
- (3) By mailing the completed voter registration form to the clerk, provided that the completed voter registration form shall be mailed directly to the clerk and shall be postmarked no later than the day of the closing of the register for the election for which the applicant seeks to be registered. If the postmark is illegible, an otherwise acceptable voter registration form shall be effective for an upcoming election:
 - (A) If the voter registration form is executed on or before the close of registration for that election; and
 - (B) The voter registration form is received by the clerk by mail no later than the second business day after the close of registration for that election.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-15, 11-16, 11-24)

§2-51-23 Voter registration form; reproduction.

(a) The voter registration form and instructions may be reproduced. If reproduced, the voter registration form must be:

- (1) reproduced in its entirety;
- (2) shall not be included in, attached to, or affixed to, any campaign or informational literature unrelated to voter registration;
- (3) shall be a 1:1 reproduction of the original form;
- (4) shall not contain a glossy finish; and
- (5) shall not be reproduced on newsprint quality paper.

(b) A facsimile of the form may be submitted to the clerk, provided that the information supplied by the applicant and the applicant's signature on the facsimile form shall be original.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-15)

§2-51-24 Clerk's approval; when voter becomes registered. (a) An applicant shall not be registered to vote unless the applicant's voter registration form contains all of the information listed in section 2-51-20(b).

(b) Unless contested by a qualified voter, the clerk may accept, as prima facie evidence, the allegations of the applicant in information required in the voter registration form.

(c) The clerk may require the applicant to furnish substantiating evidence to the allegations in the applicant's voter registration form.

(d) Upon receipt of a properly executed voter registration form, the clerk shall number the registration form and enter the name of the voter in the general county register. At this point the applicant shall be registered to vote.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-15, 11-16)

§2-51-25 Determination of residence. (a) In addition to the rules for determining residency provided in HRS §11-13, the following shall also be applicable in determining the residence of a person for election purposes:

- (1) The residence of a person is that place in which the person's habitation is fixed, where the person intends to remain, and when absent intends to return;
- (2) When a person has more than one residence:
 - (A) If a person maintains a homeowner's property tax exemption on the dwelling of one of the residences, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's residence;
 - (B) If a person claims a renter's tax credit for one of the residences, there shall be a rebuttable presumption that the residence subject to the renter's tax credit is that person's residence; and
 - (C) If a person has not physically resided at any one residence within the year immediately preceding the election, there shall be a rebuttable presumption that the residence in which the person

has not resided is not the person's residence.

- (3) When a residence address does not have a street number or a person is considered homeless, the following information shall be required:
 - (A) A description of the location of the residence sufficient to ascertain a voting district and precinct; and
 - (B) A mailing address within the state, and where the person is legally entitled and does in fact receive mail.
- (4) When a person of this state is employed in the service of the United States, is a student of an institution of learning, or is in an institution, asylum, or prison:
 - (A) A person does not gain or lose residence in a precinct or this state solely by reason of being present in or absent from a precinct or this state; and
 - (B) A person once having established residency in a precinct shall be allowed to register and vote and to continue to vote from the address at which the person is registered even though, while residing outside of the precinct or the state, the person no longer has a place of abode in the precinct and the person's intent to return to the precinct may be uncertain.

(b) Should a person's status change and the person takes up residency in another precinct or state, there shall be a rebuttable presumption that the new place of residence is that person's residence.

(c) For purposes of this section, a rebuttable presumption is a presumption considered true unless proven false by evidence to the contrary.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-13, 11-15)

§2-51-26 Confirmation of residence; questionable address procedure. (a) The following provisions shall be applicable in confirming the voter's address for registration purposes:

- (1) The clerk may implement a system of voter residency confirmation to determine that each

voter registers and votes in the precinct in which the voter resides.

- (2) The clerk may utilize the U.S. mail for the purpose of confirming a voter's residency for voting and may identify as questionable or remove a voter's registration based upon the notation provided by the post office on mail that is returned.

(b) The clerk shall identify as questionable or remove the registration of a voter if the confirmation notice mailed to the voter is not deliverable. On or before election day, the clerk shall correct the general county register and restore the name of the voter to the original polling place if the voter completes a voter registration form or other form prescribed by the chief election officer affirming that the voter:

- (1) Claims the address listed on the register as the voter's legal residence;
- (2) Changed the voter's legal residence after the closing of the register for that election; or
- (3) Moved to a new residence within the same precinct.

(c) The clerk may require the voter to present evidence supporting the voter's affirmation.

(d) When a registered voter changes residence address, the voter shall complete a voter registration form or other form prescribed by the chief election officer and shall be allowed to vote in that election at the voter's correct polling place.

(e) A person employed in the armed service of the U.S. or this state, the person's spouse and dependents, a student of an institution of learning, or a person in an institution, asylum, or prison as provided in section 2-51-25, may be exempt from subsequent address confirmation mailings provided that each completes an ACRA form or other form prescribed by the chief election officer.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-12, 11-16, 11-17, 11-18, 11-19)

§2-51-27 Transfer or change of registration initiated by the voter. (a) Once registered to vote, the voter need not register again or change the voter's registration ("reregister") for any succeeding election except upon failure to vote, change of name or address, or disqualification.

(b) A voter shall be allowed to reregister pursuant to the following procedures established by the clerk:

- (1) Completes and submits, in person or through the mail, an ACRA, RAF, or voter registration form;
- (2) Submits a request in writing which contains the voter's:
 - (A) name
 - (B) signature;
 - (C) previous and current residence address;
 - (D) date of birth; and
 - (E) social security number.

Provided that any request in writing shall not be valid after the registration deadline for the general election for the succeeding election year following removal from the register. All allegations made in writing as to the person's name, legal residence, social security number, date of birth, including eligibility for the OHA special election, shall have the force and effect as if the person had subscribed to an affidavit on application for voter registration; or

- (3) Completes and submits a federal postcard application (FPCA SF-76), or any other form prescribed by the National Voter Registration Act, or other similar form or instrument.

(c) A person shall be allowed to reregister at any time prior to the closing of the polls on election day.

(d) The date of reregistration shall be determined pursuant to sections 2-51-22 and 2-51-24. [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-17, 11-18, 11-19, 11-20)

§2-51-28 Transfer or change of registration initiated by the clerk. (a) The clerk shall use all reliable and pertinent information to keep the general county register up to date.

(b) The clerk may request information from the courts, the department of health, utility companies, condominium and apartment associations, and other agencies to gather information to keep the register up to date.

(c) Where the clerk has evidence indicating that a voter's registration should be transferred, the clerk

shall notify the registered voter by first class mail of the intent to transfer. The notice shall include:

- (1) Any evidence indicating why the transfer or change should be made;
 - (2) The residence, precinct, and district of the voter according to current registration lists and any alleged new address, precinct, and district;
 - (3) A reply form for the voter to agree or object to the transfer, to list the voter's reasons for the objection, and to sign; and
 - (4) A statement informing the voter to complete and return the reply form to the clerk by 4:30 p.m. on the fifteenth day after the form was mailed to prevent the transfer of registration from being completed.
- (d) The clerk shall transfer the registration of a voter who does not respond by 4:30 p.m. on the fifteenth day after the form was mailed.
- (e) A voter may contest the transfer on or before election day by presenting evidence to rebut the transfer which, if found valid by the clerk or the board, shall entitle the voter to restore the voter's registration to what it was before the transfer.
- [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-20, 11-21, 11-22, 11-23)

§2-51-29 Voter registration forms; distribution by other persons or organizations. (a) The clerk and chief election officer may make voter registration forms available to community groups, political parties, candidates, and other organizations for distribution.

(b) The chief election officer or clerk may set a limitation on the number of forms released to each individual or group for distribution purposes.

(c) The following shall apply when forms are distributed:

- (1) Explicit or implicit discriminatory or coercive voter registration practices, or both are prohibited;
- (2) Campaigning or promoting political issues while participating in registration drives sponsored by the chief election officer or clerk is prohibited;
- (3) If registration drives are combined with campaigning or promoting political issues, the following shall apply:

- (A) Campaigning or promoting of political issues shall be prohibited during the execution of the voter registration form; and
 - (B) The person distributing the registration form shall explain to the applicant desiring to register to vote that the campaigning or promoting of political issues is not tied to voter registration in any way;
 - (4) Completed voter registration forms shall not be collected by the distributing person or organization unless specific authorization is provided by the clerk or chief election officer. Each person who completes a registration form shall be directed to mail or deliver the completed registration form to the office of the appropriate clerk or the chief election officer;
 - (5) If the person or organization is authorized to collect completed voter registration forms, the voter registration forms shall be submitted in the time and manner specified by the chief election officer or clerk; and
 - (6) Information provided by the person on the voter registration form is confidential until the registration application is accepted by the clerk and entered in the general county register. An individual or organization distributing or collecting the registration forms shall not duplicate, copy, or otherwise make use of any information provided on the voter registration form.
 - (d) The chief election officer or clerk may restrict or revoke the authorization of groups to distribute and collect registration forms:
 - (1) For willful violation of an election law;
 - (2) For failure to obey the lawful directives of the chief election officer or clerk.
- [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-16)

§2-51-30 Confidential registration; law enforcement persons. (a) A law enforcement person may request that said person's voter registration information be kept confidential, if the person can show good cause that a life threatening circumstance

exists to the law enforcement person or to said person's family. A request for confidential registration shall be confidential.

(b) The head of the law enforcement department that employs the law enforcement person shall submit a letter to the clerk requesting confidential registration for the department's personnel. The department head's letter shall include the name, social security number, and date of birth of each law enforcement person. The clerk may request additional information regarding the reasons justifying confidential treatment.

(c) A law enforcement person may submit a request for confidential registration directly to the clerk. The request shall be in writing and shall include the person's name, social security number, date of birth, and reasons justifying confidential treatment.

(d) In no event shall a confidential registration be released without notification of the head of the law enforcement department and the law enforcement person.

(e) The clerk may verify the employment status of a law enforcement person granted confidential registration on an election year basis.

(f) A challenge to the voter registration of a law enforcement person who has been granted confidential registration shall be processed in accordance with the procedures set forth in section 2-51-46.

(g) A law enforcement person granted confidential registration pursuant to this section shall vote by mail absentee ballot only. The voter shall be responsible to apply for the mail absentee ballot.
[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-14.5)
(Imp: HRS §11-14.5)

§2-51-31 Voter registration information; prohibited uses. (a) Voter registration forms, the general county register, or any lists or computer tapes prepared therefrom shall be released or used for election or government purposes only, unless otherwise provided by law.

(b) A voter's registration form may be released for election or government purposes if the applicant seeking access:

- (1) Is the voter registration affiant;
- (2) Has filed a formal voter challenge against the affiant, provided that the affiant is not

a law enforcement person protected under section 2-51-30;

- (3) Has filed a formal voter challenge against a law enforcement person and the procedures in section 2-51-46 have been followed; or
- (4) Is taking action to place a candidate or issue on the ballot to be voted on by the electorate in a scheduled election.

(c) The voter register, whether in hard copy or on computer tape, may be released, excluding the social security number and year of birth of each registrant, for election or government purposes, and as otherwise provided by law, if the applicant seeking access:

- (1) Has filed a written request to view the register for election or government purposes;
- (2) Is a candidate as defined under HRS §11-191;
- (3) Is a political party satisfying the requirements of HRS §11-61 or political action committee as defined under HRS §11-191;
- (4) Is a service bureau submitting a written request to rent the tapes for election or government purposes only;
- (5) Is a group electioneering on issues such as initiative or recall, urging people to register to vote, or encouraging people to vote in particular election contests or on particular issues; or
- (6) Is an incumbent office holder communicating with constituents.

(d) Federal, state, or county government agencies may use the information for public purposes, such as state jury lists, government research, or county studies; provided that social security numbers and year of birth may be released if the requesting agency requests and provides appropriate grounds for its use.

(e) Before any voter registration form or register is released, the applicant seeking such release shall:

- (1) Obtain the written permission of the clerk;
- (2) Agree in writing to use the information for election or government purposes only;
- (3) Agree in writing not to sell or release the information for commercial purposes, provided that service bureaus may charge a fee for their services; and

(4) In the case of a rental of tapes, agree in writing to return the tape no later than the date specified by the clerk.

(f) It shall be unlawful for any applicant to use, print, publish, or distribute in any manner whatsoever not provided by law, any voter registration information acquired directly or indirectly from the voter registration form or register. Any person who violates this section shall be subject to punishment under HRS Chapter 19.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-14, 11-14.6)

§§2-51-32 to 2-51-39 (Reserved).

SUBCHAPTER 4

VOTER CHALLENGES AND APPEALS

Historical note: Chapter 2-51, Subchapter 4, is based substantially upon Chapter 2-37 [Eff 9/13/82; am 7/30/84; R SEP 16 1996]

§2-51-40 Prerequisites for challenge. (a) Prior to election day, any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct.

(b) At the polling place on election day, any registered voter, including a candidate, poll watcher, or official observer, rightfully in the polling place may challenge the right to vote of any other person at the polling place.

(c) A challenge on the grounds that an OHA voter is not Hawaiian may be brought only by another registered OHA voter.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-25)

§2-51-41 Grounds for challenge. (a) Prior to election day, a challenge may be brought for any cause or upon any grounds not previously decided by the board of registration or the supreme court in respect to the person challenged.

(b) At the polling place on election day, any voter rightfully in the polling place may challenge the right to vote of any person who comes to the precinct to vote only upon the following grounds:

- (1) The person is not who the person claims to be;
- (2) The person is not a resident of the precinct; or
- (3) In the case of an OHA election, an OHA registered voter may challenge the person on the grounds that the person is not Hawaiian.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-25)

§2-51-42 Challenge prior to election day; procedure. (a) A challenge prior to election day shall be delivered to the clerk in writing, setting forth the grounds upon which it is based and signed by the person making the challenge.

(b) The clerk shall immediately notify the person challenged.

(c) The clerk shall, as soon as possible, investigate and rule upon the challenge.

(d) The clerk shall notify the challenger and the person challenged in writing of the clerk's decision. The clerk shall also notify the person ruled against of the person's right to appeal to the board within ten days of service of the adverse decision. Service of the decision shall be made personally or by registered mail, which shall be deemed complete upon deposit in the mail, postage prepaid, and addressed to each party's last known address.

(e) If an appeal is brought, both the challenger and the challenged voter shall be parties to the appeal.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-25)

§2-51-43 Appeal to the board prior to election day. (a) Any appeal from the clerk's ruling shall be made in writing by filing a notice of appeal with the chairperson of the board of registration within ten days of service of the clerk's decision. The notice of appeal shall include a statement of the clerk's decision being appealed, the grounds upon which it is being contended that the clerk's decision is erroneous, and the name of the person challenged. The appeal shall be exempted from the provisions of HRS Chapter 91, regarding contested case hearings.

(b) The board may hold an informal pre-hearing conference for the purpose of:

- (1) Simplifying and clarifying issues;
- (2) Making necessary or desirable amendments to the notice of the charges, or its answer, if any;
- (3) Obtaining admissions of fact or documents to avoid unnecessary proof; limiting the number of expert witnesses; and
- (4) Any other materials that may aid in the reasonable and expeditious disposition of the matter.

Notice and opportunity to participate shall be given to each party and each party's attorney. The entire board or one of its members designated for such purpose shall preside at the conference. No attempt at fact finding or argument shall be permitted. Prejudicial comment or conclusion on any issue being controverted shall not be made or stated at any time by any member or the presiding member of the board. Minutes of the conference shall be kept and agreements shall be concisely noted.

(c) The petitioner and the respondent shall have the opportunity to challenge any member of the board.

(d) The chairperson of the board shall be the presiding officer and shall be authorized to make any preliminary determinations necessary for the prompt and efficient management of the appeal hearing.

(e) Before presentation of the case, each party shall have the opportunity to make an opening statement. The usual order of the opening statements shall be:

- (1) Opening statement by the petitioner;
- (2) Opening statement by the respondent, or respondent may reserve respondent's opportunity to make the opening statement until after the witnesses for the petitioner have been presented; and
- (3) Opening statements may be waived by a party.

(f) Witnesses may be called to testify and presented in the following order:

- (1) Witnesses for the petitioner;
- (2) Witnesses for the respondent;
- (3) Witnesses for the petitioner in rebuttal;
- (4) Witnesses for the respondent in rebuttal; and
- (5) Additional witnesses as the board may deem necessary.

(g) Witnesses may be subpoenaed, and examined in the following order:

- (1) Direct examination by the party calling the witness;
- (2) Cross examination by the other party;
- (3) Redirect examination by the party calling the witnesses;
- (4) Recross examination by the other party; and
- (5) Examination by the board.

(h) Rules of evidence as specified in HRS §91-10 shall be applicable thereto.

(i) After all the evidence has been presented, the board shall give each party the opportunity to

summarize. The usual order of final argument shall be as follows:

- (1) Final argument by the petitioner;
- (2) Final argument by the respondent; and
- (3) Rebuttal argument by the petitioner, which shall be limited to countering whatever may be said by the respondent during the respondent's final argument. A reasonable time limit may be imposed by the board for the final arguments. Final arguments may be waived by a party.

(j) At the end of the hearing, the board may give an oral decision or take the matter under advisement with a written decision to be issued at a later date. Regardless of whether the board gives an oral decision, the board shall issue a written decision, including findings of fact and conclusions of law.

(k) The board shall notify the person ruled against that the person may appeal to the state supreme court within ten days of service of the board's written decision. Service shall be made personally or by registered mail, which shall be deemed complete upon deposit in the mails, postage prepaid, and addressed to each party's last known address. The notification shall contain a copy of part IV of HRS Chapter 11, "Appeal from Board of Registration." The board shall not consider motions for reconsideration.

(l) Unless the board's decision is timely appealed to the Supreme Court, the clerk shall make any necessary changes to the register of voters to conform to the decision. The clerk shall notify the challenger and the challenged voter of the voter's status on the register.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-43)
(Imp: HRS §§11-25, 11-26, 11-41, 11-43, 11-51 - 11-54)

Historical note: §2-51-43 is based substantially upon §2-37-3 [Eff 9/13/82; R SEP 16 1996] and Chapter 2-40 [Eff 7/30/84; R SEP 16 1996]

§2-51-44 Challenge at the polling place on election day; procedure. (a) A challenge at the polling place shall be filed with the precinct chairperson. It need not be in writing.

(b) The challenged voter shall be given the opportunity to make a correction to the voter's registration pursuant to HRS §11-21.

(c) The precinct chairperson shall call a meeting of two other precinct officials, not of the same party, to discuss the challenge and any relevant information. After the challenge has been adequately considered, the precinct chairperson and the two precinct officials shall decide immediately whether the challenged voter may or may not vote. The majority vote of the three officials shall decide the challenge.

(d) The precinct chairperson shall inform each party of the decision. The precinct chairperson shall inform the person decided against that the person may appeal the decision to the board at that time. The precinct chairperson shall give the challenger and the challenged voter copies of the rules regarding challenges and appeals to the board.

(e) The appeal shall be made either before the challenged voter casts a regular ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier.

(f) If no appeal is made, the decision of the precinct officials shall stand. The challenged voter is allowed to vote on a regular ballot, or is not allowed to vote, in accordance with the decision.

(g) If an appeal is made, the procedures set forth in section 2-51-45 shall be followed.
[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-43)
(Imp: HRS §§11-16, 11-25, 11-26)

Historical note: §2-51-44 is based substantially upon §2-37-1 [Eff 9/13/82; am 7/30/84; R SEP 16 1996] and §2-40-10 [Eff 7/30/84; R SEP 16 1996]

§2-51-45 Appeal to the board from decision at the polling place. (a) In the case of an appeal from a decision rendered by the precinct officials at the polling place, the challenged voter shall vote on a challenged ballot. The precinct chairperson shall collect and submit the facts of the challenge to the board. The voting of the challenged ballot and the board's hearing shall be conducted in accordance with the procedures in subsection (b).

(b) If an appeal is made to the board from a decision rendered by the precinct officials at the polling place, the precinct chairperson shall:

- (1) Notify the clerk that a challenged ballot is being deposited in the ballot box and explain

- the circumstances of the challenge to the clerk or the designated representative;
- (2) Direct the voter to vote the challenged ballot and to place the ballot, with stub intact, in the utility envelope provided for this purpose;
 - (3) Seal the envelope after the voter has voted and print the following information on the face of the envelope: the words "challenged ballot," the voter's name, the district and precinct, and the time the ballot was received by the precinct official;
 - (4) Sign the face of the envelope and enter the required information in the record book; and
 - (5) Deposit the envelope in the ballot box in the presence of the challenged voter and write the word "challenged" in the remarks column of the pollbook.

(c) The precinct chairperson shall contact the board to hear the appeal. Using telephones, the board member serving as the presiding officer shall swear-in the challenger, the person challenged, the precinct chairperson, and any witnesses present. Each person who testifies before the hearing officer shall state the following for the record:

- (1) Name as registered to vote;
- (2) Residence address and mailing address;
- (3) Social security number and telephone number; and
- (4) Role in the challenge.

(d) The board shall listen to the evidence presented by each of the above persons and then shall close the hearing with the exception of the receipt of any documentary evidence any of the parties to the challenge notifies the board that the party is going to submit prior to the closing of the polls.

(e) The board shall discuss the challenge and come to a decision regarding the appeal. A summary of the discussion of the board, the decision of the board, and the reasons for the board's decision shall be included in the board's minutes.

(f) The board shall notify the precinct chairperson and the clerk of its decision. If necessary, the clerk shall issue a correction order to change the register to correspond to the board's decision. The precinct chairperson shall notify each party of the board's decision. The precinct

chairperson shall also notify the party ruled against that the party may appeal to the state supreme court.

(g) If no appeal is made, the clerk shall immediately notify the county counting center manager or designated representative of the disposition of the challenge. The challenged ballot shall be counted or disposed of pursuant to section 2-51-101.

(h) If an appeal is made, the ballot shall remain in the sealed envelope to be counted or rejected in accordance with the ruling on appeal and the register shall be corrected to conform with the court's decision.

(i) The secrecy of the challenged voter's ballot shall be safeguarded as provided in subsection (b).
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-25, 11-26, 11-41, 11-51)

Historical note: §2-51-45 is based substantially upon §2-37-1 [Eff 9/13/82; am 7/30/84; R SEP 16 1996] and §2-40-11 [Eff 7/30/84; R SEP 16 1996]

§2-51-46 Challenge to confidential registration; special procedure. In addition to the conditions and procedures for voter challenges prior to election day set forth in sections 2-51-40, 2-51-41, and 2-51-42, a challenge to the voter registration of a law enforcement person who has been granted confidential registration pursuant to section 2-51-30, shall be treated as follows:

- (1) The clerk shall immediately notify the law enforcement person being challenged and said person's department head that a challenge to the officer's voter registration has been filed, including the charges set forth in the challenge and the challenger's name;
- (2) The clerk shall investigate the challenge and if the clerk determines that the challenge is not frivolous, the clerk shall notify the law enforcement person that the person's voter registration form may be released.
- (3) If the law enforcement person wishes to contest the challenge, the voter registration form may be released for inspection by the challenger. The challenge, and appeal, if any, shall be conducted in accordance with this chapter.

- (4) If the law enforcement person wishes to withdraw said person's voter registration, the voter registration form shall not be released, and said person shall not be allowed to vote. The challenger shall be notified that said person has not contested the challenge and that said person shall not be allowed to vote.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-14.5)

§2-51-47 Correction of errors; appeal to the board of registration from clerk's ruling. A person claiming to be aggrieved by the refusal of the clerk to correct the person's registration information in those instances set forth in HRS §11-22, may appeal to the board either prior to election day pursuant to section 2-51-43 or on election day pursuant to section 2-51-45. [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-22, 11-26)

§§2-51-48 to 2-51-49 (Reserved).

SUBCHAPTER 5

POLITICAL PARTIES

§2-51-50 Political parties; qualification. (a) Any group of persons having qualified as a political party for election ballot purposes by petition, pursuant to HRS §11-62, for three consecutive general elections shall be deemed a political party for the following ten-year period, or for the following five general elections, provided that the qualified political party continues to field candidates for public office in the elections held during that period and to meet the requirements of HRS §§11-62, 11-63, and 11-64.

- (1) The ten-year period will start with the general election immediately following the third consecutive general election for which the party qualified by petition pursuant to HRS §11-62; and

- (2) At the end of the ten-year period, the qualified party which has not been disqualified for other reasons, shall be subject to the requirements of HRS §11-61.

(b) Any party which is not exempt from and which does not meet HRS §11-61(b)(1) and one of the provisions in HRS §11-62(b) subparagraphs (2) to (5) shall be subject to disqualification.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-61, 11-62, 11-63, 11-65)

Historical note: §2-51-50 is based substantially upon §2-34-10 [Eff 9/12/88; R SEP 16 1996]

§2-51-51 Party petitions; issuing. (a) Any individual or group wishing to petition to qualify a new political party in the State, pursuant to HRS §11-62, shall complete an application form before receiving the petition forms. On the application form, the group shall identify:

- (1) A contact person or persons responsible for the petition;
- (2) The date the application form is completed; and
- (3) The telephone numbers and mailing address at which the contact person or group can be contacted.

(b) The petition shall be void upon the one hundred and forty-ninth day prior to the primary election for which it is issued.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-62)
(Imp: HRS §11-62)

§2-51-52 Party petitions; withdrawal of signatures. (a) Any voter who has signed a party petition pursuant to HRS §11-61, may withdraw the voter's signature by submitting a written notice to the chief election officer any time prior to the filing of the petition. The written notice to withdraw shall contain the following:

- (1) The date of the notice;
- (2) The name, social security number, address, and date of birth of the voter requesting to have the voter's name removed from the petition;
- (3) The signature of the voter with the name under which the voter is registered to vote;

- (4) The name of the party petition from which the signature should be removed; and
 - (5) A statement that the voter wishes to withdraw the voter's signature from the petition.
 - (b) Upon receipt of a written notice to withdraw prior to the filing of the petition containing the appropriate information provided in subsection (a), the chief election officer shall notify the group or individuals to whom the petition was issued that the signature of the voter will not be counted.
 - (c) Upon receipt of the petition for filing, the chief election officer shall:
 - (1) Verify that the signature on the written notice to withdraw corresponds with the voter's signature on the petition; and
 - (2) If the signature corresponds, cross out the voter's signature in black ink and indicate on the petition that the voter has withdrawn the voter's signature.
 - (d) If the written notice to withdraw is received by the chief election officer after the petition has been filed, then the chief election officer shall notify the voter, in writing, that the voter's notice was not received in time and was not accepted.
- [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-6, 11-61, 11-62)

§2-51-53 Party petitions; qualification of signatories. To determine whether an individual is qualified to sign a party petition, the chief election officer or designated representative shall determine whether the signatory is an active registered voter by checking the statewide voter registration system; provided that a properly executed voter registration form shall be effective if it is received by the clerk and the affiant's name has been entered in the statewide voter registration system on or before the date on which the petition is filed.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-62)

§2-51-54 Party petitions; verification of signatories. (a) Upon receipt of a party petition, the chief election officer or designated representative shall verify within ten business days whether the petition has met the requirements of HRS §11-62.

(b) Upon receipt of a petition containing the minimum number of signatures required by HRS §11-62(a)(3), the chief election officer or designated representative shall verify whether each voter signing the petition is a registered voter in Hawaii by verifying whether the voter's social security number appears in the statewide voter registration system as an active registered voter.

- (1) If the social security number on the petition exists as an active registered voter in the statewide voter registration system, then the signatory shall be counted;
- (2) If the social security number on the petition is not the number of an active registered voter in the statewide voter registration system, then the signatory shall be not counted;
- (3) If there are duplicate signatories on a party petition, and the social security number is that of an active registered voter, then the signatory shall be counted once; and
- (4) If the voter's social security number and name are not legible, then the signatory may not be counted.

(c) If a voter withdraws the voter's signature from the petition as prescribed in section 2-51-52, the voter's signature shall not be verified or counted.

(d) The chief election officer or designated representative may verify that the voter's signature on the petition corresponds with the voter's signature on the voter's registration form. If the signature does not correspond, then the voter's signature on the petition shall not be counted. The chief election officer or designated representative shall indicate on the petition that the voter's signature is invalid because it does not match the signature on the voter's registration form.

(e) The chief election officer or designated representative may verify only as many signatories as needed to ensure that the political party has met the signature requirements of HRS §11-62.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-62)

§§2-51-55 to 2-51-59 (Reserved).

SUBCHAPTER 6

PRECINCT OFFICIALS AND WATCHERS

§2-51-60 Precinct officials; selection. (a) Names of otherwise qualified voters timely filed by qualified political parties shall be used to fill positions for precinct officials. In addition to any statutory requirements, the following qualifications shall apply:

- (1) The person shall be able to read and write the English language;
- (2) The person shall be sixteen years of age or older on or before June 30 of the year of the election for which the person is appointed; and
- (3) The person shall be registered to vote in the precinct in which the person serves as a precinct official where possible, except for sixteen or seventeen year old officials.

(b) A precinct official who is under 18 years of age on or before June 30 of the year of the election in which that person is appointed shall not:

- (1) Be a chairperson or a voter assistance official of a precinct; and
- (2) Comprise the majority of precinct officials in any one precinct.

(c) When a qualified political party fails to submit the required number of precinct officials by the statutory deadline, the chief election officer or clerk may fill the remainder of positions without regard to party apportionment.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-72)

Historical note: §2-51-60 is based substantially upon §2-34-12 [Eff 9/12/88; R SEP 16 1996]

§2-51-61 Precinct officials; gifts and gratuities prohibited. While in a polling place, a precinct official shall not accept any gift of food, beverage, or other gratuity from any political party or candidate.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§19-3, 19-6)

§2-51-62 Precinct officials; confidentiality of voter information. (a) Except as required by law or as directed by the chief election officer or clerk, a precinct official may not disclose whether a voter has:

- (1) Voted or not voted;
- (2) Requested or received voting assistance;
- (3) Requested or cast an absentee ballot; or
- (4) Initiated or completed a change of address or other correction to the voter's registration.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-75, 11-137, 11-139)

§2-51-63 Precinct officials procedure; campaign activities. (a) No person at a polling place shall be permitted to exhibit on his or her person, or distribute any communication which is in any way intended to directly or indirectly solicit, influence, or address any candidate race or question on the ballot. The precinct chair shall request that any person in violation of this paragraph remove or cover any clothing, button, hat, armband or other campaign material that is being exhibited by the person. Any brochures or other written material being distributed at a polling place in violation of this section shall be confiscated. Any removed or confiscated material shall be returned when the person leaves the polling place. Any person who refuses to comply with the request of the precinct chair shall be required to leave the polling place.

(b) Except when a vehicle is used by a person traveling to or from a polling place for the purpose of voting, a vehicle parked within the area prescribed in HRS §11-132, may not exhibit any sign, bumper sticker, or other campaign material on said vehicle.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-132) (Imp: HRS §§11-132, 19-6)

§2-51-64 Non-campaign activity within prescribed area of polling place; time, place, and manner. The chief election officer may establish procedures to ensure that non-electioneering activities, including exit polling, within the area prescribed in HRS §11-132, do not interfere in any way with the orderly conduct of elections. Such procedures may include:

- (1) The prohibition of commercial activity, other than those which were pre-existing, involving advertising, solicitation or sales;
- (2) Requiring prior notification and approval for any organized activity;
- (3) Limiting the number and proximity of persons involved or places where the activity takes place;
- (4) The prohibition of loudspeakers or other amplification devices;
- (5) Requiring that the precinct chairperson be advised of the activity;
- (6) The cessation or removal of any activity which interferes with the conduct of the election; and
- (7) Prohibiting the solicitation or approaching of persons proceeding to or from a polling place.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-132)
(Imp: HRS §§11-132, 19-6)

§2-51-65 Poll watchers; guidelines. (a) Each qualified political party shall:

- (1) Be entitled to appoint no more than one watcher in each precinct and absentee polling place in which the candidates of such party are on the ballot; and
 - (2) Submit a list of watchers not later than 4:30 p.m. on the tenth day prior to any election to the chief election officer or to the clerk in county elections.
- (b) Each poll watcher shall:
- (1) Receive identification from the chief election officer;
 - (2) Be permitted to observe the conduct of the election in the precinct to which they are assigned; and
 - (3) Inform the precinct chairperson of any violation of the election laws that the poll watcher observes.

(c) A designated poll watcher may relieve another poll watcher as long as there is not more than one represented at the poll at a time.

(d) The poll watcher shall not interfere with the orderly process of the election.

(e) The poll watcher may turn the pages of the pollbook after obtaining permission from the precinct

chairperson. The precinct chairperson shall grant such permission at times when there is a reasonable break in voting activity.

(f) Any violation of the election law shall be reported to the clerk.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-77)

§§2-51-66 to 2-51-69 (Reserved).

SUBCHAPTER 7

BALLOT PRINTING AND DELIVERY

Historical note: Chapter 2-51, Subchapter 7, is based substantially upon Chapter 2-34 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996]

§2-51-70 Candidate vacancies; filling of by party. (a) In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the party. If the party chooses to fill the vacancy, the party chairperson or the chair's designated representative, shall submit a written notice to the chief election officer, or clerk in the case of a county office, not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the fiftieth day prior to a primary or special primary or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election.

(b) The written notice from the party chairperson, or chair's designated representative, shall contain:

- (1) The name of the party;
- (2) The office to be filled;
- (3) A statement that the party nominates the candidate named to fill the vacancy;
- (4) The name, address, and telephone number(s) of the candidate being nominated;
- (5) The candidate's name as it should appear on the ballot;

- (6) An acknowledgement that the candidate accepts the nomination; and
- (7) The signature and title of the person submitting the notice.

(c) Any candidate nominated by a party to fill a candidate vacancy shall not be required to file nomination papers or to pay a filing fee.

(d) If the third day after the vacancy occurs is a Saturday, Sunday, or holiday, then the chief election officer shall open the office to receive the written notices to fill the vacancy from the parties. The chief election officer shall notify the party chairperson that the office will be open to receive the notice. No extension of time will be allowed.

(e) If the party fails to fill the vacancy within the time specified in HRS §11-118, then no candidate's name shall be printed on the ballot for the party for that race.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-117, 11-118)

§2-51-71 Official ballots; punchcard ballot system. In a punchcard system, the official ballot to be used for elections shall be the standard weight long-grain tabulating card stock for use with data processing equipment. The design and arrangement of the ballot shall meet the requirements of the electronic voting system. The maximum number of candidates or ballot questions for which the voter is legally entitled to vote in any given case shall be clearly indicated.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-112, 11-119)

Historical note: §2-51-71 is based substantially upon §2-35-6 [Eff 9/13/82; R SEP 16 1996]

§2-51-72 Ballots; delivery; seal certification procedure; delivery and collection team. (a) Ballots shall be delivered to and from the polling places by a delivery and collection (DC) team or by two election officials designated by the chief election officer or clerk. Each DC team shall be comprised of two election officials not of the same political affiliation.

(b) Whenever the custody of ballots is transferred, the election officials delivering and

receiving the ballots shall conduct the following seal certification procedure:

- (1) Ensure that the ballot transport containers and ballot boxes are properly closed and sealed;
- (2) Compare the seal numbers on the ballot transport containers and ballot boxes with the seal numbers recorded on the ballot seal control form or other appropriate form as prescribed by the chief election officer;
- (3) Record discrepancies on the ballot seal control form, or other appropriate form prescribed by the chief election officer; and
- (4) Report discrepancies to the chief election officer, clerk, or designated representative.

(c) After the closing of the polls, the precinct chairperson or the chair's designated representative shall return the unvoted ballots from the polling place to the chief election officer or clerk.

(d) The DC team shall be organized, recruited, and trained in accordance with the procedures established by the chief election officer, clerk, or designated representative.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-120)

(Imp: HRS §§11-120, 11-134, 16-43)

§2-51-73 Ballots; transportation and receipt at polling places. (a) Ballots shall be transported to the polling places on election day by the DC Team in sealed ballot transport containers in accordance with the procedure and schedule established by the chief election officer, clerk, or designated representative; provided that when emergency or reserve ballots are required, ballots may be transported to the polling place by two designated representatives of the chief election officer or clerk.

(b) A precinct official shall be at the polling place at least one hour before the time set for opening the polls, or according to such other schedule prepared by the chief election officer, clerk, or designated representative, to receive the ballots which shall be delivered by the DC Team.

(c) Ballots transported to the precinct by the DC Team may be left at the polling place provided that at least one precinct official is present to receive and sign for the sealed ballot transport containers.

(d) Upon receipt of the sealed ballot transport containers, the receiving officials shall conduct the seal certification process defined in section 2-51-72.

(e) The ballot transport containers shall be unsealed and opened at the polling place prior to the opening of the polls on election day and only in the presence of two precinct officials not of the same political party.

(f) The precinct officials shall compare the ballot serial numbers with the ballot seal control form to determine the quantity of ballots. Discrepancies shall be reported immediately to the chief election officer, clerk, or designated representative and shall be recorded on the ballot seal control form.

(g) In a precinct which cannot be reached by road within one hour from the clerk's office in each county, as may be determined by the chief election officer, clerk, or designated representative, the ballots may be delivered by representatives of the chief election officer or clerk, to the chairperson of the precinct officials or designated election officials prior to election day; provided that the ballot transport containers shall remain sealed and shall be unsealed only at the polling place prior to the opening of the polls and in the presence of at least two precinct officials not of the same political party. The precinct chairperson shall be responsible to have the ballot transport containers at the polling place prior to the opening of the polls.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-120)
(Imp: HRS §§11-75, 11-120, 11-134, 16-43)

§2-51-74 Ballots; receipt by clerks; procedure.

(a) The clerk, or clerk's designated representative, shall receive the ballots which shall be delivered by the chief election officer or designated representatives in accordance with the procedure and schedule established by the chief election officer. Absentee ballots may be delivered directly to the clerks by the ballot production contractor.

(b) When ballots are delivered in sealed ballot transport containers, the clerk or designated representative shall compare the numbers on the seals with the ballot transport container shipping form. Discrepancies shall be recorded on the ballot transport container shipping form and reported immediately to the

ballot delivery contractors and the chief election officer or designated representative.

(c) The clerk or designated representative shall compare the ballot serial numbers with the ballot transport container shipping form to determine the quantity of ballots. Discrepancies shall be recorded on the ballot transport container shipping form and reported immediately to the chief election officer or designated representative.

(d) After the ballot transport containers are inventoried and verified, the clerk or designated representative shall sign the ballot transport container shipping form signifying that all ballots were received and all seals, other than those noted, are intact.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-120)
(Imp: HRS §§11-75, 11-120, 11-134, 16-43)

§2-51-75 Receipt of materials other than ballots.

(a) Each precinct chairperson shall receive the supply box in accordance with the system and schedule determined by the chief election officer or clerk.

(b) The chief election officer, the clerk, or a designated representative shall also provide an inventory form reflecting the types and quantity of polling place materials transferred.

(1) Immediately upon receiving the materials, the chairperson shall compare with the inventory form the types and quantity of materials received.

(2) The chairperson shall report any discrepancy immediately to the chief election officer, the clerk, or a designated representative and shall record the discrepancy in the record book.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-120)
(Imp: HRS §11-120)

§§2-51-76 to 2-51-79 (Reserved).

SUBCHAPTER 8

VOTING PROCEDURES AT POLLING PLACES

Historical note: Chapter 2-51, Subchapter 8, is based substantially upon Chapter 2-35 [Eff 9/13/82; am 7/30/84; am 9/12/88; R SEP 16 1996]

§2-51-80 Paper ballots; voting procedure at polls. (a) A demonstration of the proper method to use in marking a paper ballot shall be available to all voters at the polling place. A card of instruction detailing the method of marking ballots and voting shall be posted outside the polling place and in each voting booth.

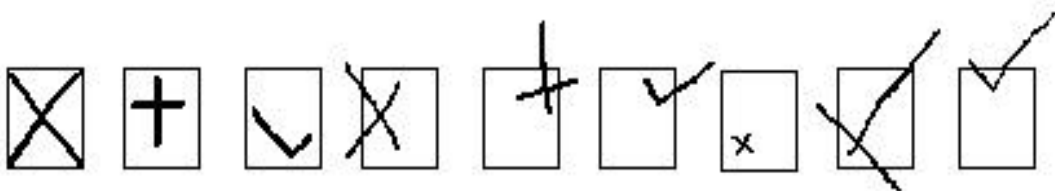
(b) The voter shall present valid identification to the official in charge of the pollbook.

(c) Before the ballot is issued to the voter, the voter shall sign the pollbook or make the voter's mark. If the voter is unable to write for reasons of illiteracy, blindness, or other physical disability, the voter shall make the voter's mark and the precinct official shall print "witnessed by" next to the voter's mark and sign the precinct official's name.

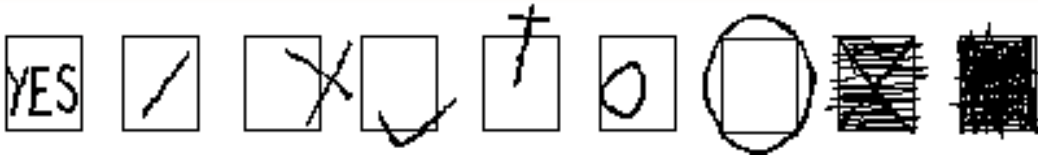
(d) Before issuing a ballot to a voter, the precinct official shall fold the ballot in the manner prescribed by the chief election officer or clerk so as to conceal the contents.

(e) Upon receiving the folded ballot, the voter shall proceed into the voting booth and shall mark the ballot as prescribed in the card of instruction. Within the voting booth the voter shall designate each choice by marking an "X", "+", or "√" in the right hand block or blocks next to the name of the candidate for whom the voter desires to vote or the question on the ballot for which the voter desires to vote.

(1) Examples of proper marks are:



(2) Examples of improper marks are:



(f) The voter shall then refold the ballot using the same folds as when handed to the voter by the precinct official and shall give the folded ballot to the ballot box official. The official shall not open or unfold the ballot, but shall ensure that the correct number of ballots are deposited in the ballot box.

(g) The ballot box official shall give the voter a receipt.

(h) Voter assistance shall be provided at the polling place.

(1) For voters covered by the Voting Rights Language Assistance Act amendments of 1992, 42 U.S.C. §1973aa-1a, the chief election officer shall provide bilingual assistance in voting procedures.

(2) For all voters, the precinct officials shall provide assistance as needed or required by HRS §11-139.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 16-22, 42 U.S.C. §1973aa-1a) (Imp: HRS §§11-136, 11-139, 12-31, 16-22, 16-23, 42 U.S.C. §1973aa-1a)

§2-51-81 Paper ballots; spoiled ballots. (a) If a voter spoils a ballot in the process of voting, or receives a spoiled ballot, the voter shall be issued another ballot, properly folded, by the precinct officials.

(b) Before issuing the new ballot, the precinct officials shall:

- (1) Give the voter a utility envelope, ask the voter to place the spoiled ballot in the envelope, and seal the envelope;
- (2) Write "spoiled" across the face of the envelope and sign the precinct official's name;
- (3) Deposit the utility envelope in the spoiled ballot envelope;
- (4) If the paper ballot has a stub number, line out the voter's previously issued stub number and record the new stub number;

- (5) Write in the pollbook in the remarks column on the same line as the voter's name, "spoiled ballot"; and
- (6) Have the voter place the voter's initials next to the words "spoiled ballot."
- (c) The precinct officials shall, after the above procedures in subsection (b) are completed, give the voter a new ballot properly folded.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-140)

§2-51-82 Punchcard ballots; demonstration ballots. (a) At each election using punchcard ballots, there shall be provided as many demonstration ballots as the chief election officer, clerk, or designated representative deems appropriate.

(b) The demonstration ballots shall be designed to prevent tabulation by the computer programmed to count the ballots in the election.

(c) The demonstration ballots shall not contain the names of candidates or ballot questions to be voted on in the election.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-2, 11-120, 11-133)

§2-51-83 Punchcard ballots; voting procedure at polls. (a) A demonstration of the voting device using punchcard ballots shall be available to all voters at the polling place.

(b) A voter shall present valid identification to the official in charge of the pollbook.

(c) The serial number of the ballot stub or ballot packet shall be entered by the official in the appropriate column in the pollbook.

(d) Before the ballot is issued to the voter, the voter shall:

- (1) Sign the pollbook; or
- (2) Make the voter's mark in the appropriate place in the pollbook if the voter is unable to write for reasons of illiteracy, blindness, or other physical disability. The precinct official shall print "witnessed by" next to the voter's mark and sign the precinct official's name.

(e) A voter shall designate each choice with the voting device by punching out completely a hole in the

ballot's voting position block next to the name of the candidate for whom the voter desires to vote or next to the ballot question for which the voter desires to vote.

(f) The voter shall return the voted ballot in the ballot holder to the ballot box official with the stub end at the top. The official shall remove the stub of the voted ballot and then deposit the voted ballot in the ballot box. At no time during the handling of the voted ballot shall the voted portion of the ballot become visible to the official or any person in the polling place. The stub shall be given to the voter as a receipt.

(g) In a primary or special primary election, the voter shall be issued all party and nonpartisan ballots in a sealed ballot packet. The voter shall:

- (1) Go to a ballot selection booth, tear off the top of the packet, and select a single party or nonpartisan ballot and any special primary election ballots on which to vote;
- (2) Place the selected party or nonpartisan ballot card and any special primary election ballots in the ballot holder;
- (3) Place the remaining ballot cards in the ballot packet;
- (4) Leave the ballot selection booth, and hand the ballot packet containing the unselected ballots to the discard box official who shall deposit the unselected ballots in the discard box; and
- (5) Enter a voting booth and vote.

Should a party or nonpartisan ballot exceed one ballot card, a secrecy ballot may be used to guard the secrecy of the voter's party preference.

(h) Voter assistance shall be provided at the polling place.

- (1) For voters covered by the Voting Rights Language Assistance Act amendments of 1992, 42 U.S.C. §1973aa-1a, the chief election officer shall provide bilingual assistance in voting procedures.
- (2) For all voters, the precinct officials shall provide assistance as needed or required by HRS §11-139.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4, 42 U.S.C. §1973aa-1a) (Imp: HRS §§11-136, 11-139, 12-31, 42 U.S.C. §1973aa-1a)

§2-51-84 Punchcard ballots; spoiled ballots; primary or special primary election. (a) In a primary or special primary election, if the voter spoils a ballot and the ballot has not yet been deposited into the ballot box, the precinct official shall issue the voter another ballot or ballot packet containing a new set of party and nonpartisan ballots and any special primary election ballots.

(b) Before issuing a new ballot packet, the precinct official shall:

- (1) Give the voter a utility envelope, ask the voter to place the spoiled ballot in the envelope, and seal the envelope;
- (2) Write "spoiled" across the face of the envelope and sign the precinct official's name;
- (3) Check the pollbook to verify that the voter has been issued a ballot packet;
- (4) Deposit the utility envelope in the spoiled ballot envelope;
- (5) Line out the voter's previously issued ballot packet serial number and record the new serial number; and
- (6) Direct the voter to place the voter's initials next to the new ballot packet serial number.

(c) After completing the above procedures in subsection (b), the precinct official shall give the voter a new ballot packet. The voter shall go to the ballot selection booth, tear off the top of the packet, and select a single party or nonpartisan ballot and any special primary election ballots on which to vote. The selected ballot or ballots shall be placed in the ballot holder. The remaining ballot cards shall be placed in the ballot packet. Upon leaving the ballot selection booth, the voter shall hand the ballot packet containing the unselected ballots to the discard box official who shall deposit them in the discard box.

(d) The precinct chairperson or voter assistance official shall record the incident in the record book.

(e) The voter shall punch the ballot or ballots and place the voted ballot or ballots, stub end on top, in the ballot holder.

(f) The ballot box official, after removing the ballot stub shall deposit the voted ballot or ballots in the ballot box, and give the voter the ballot stub or stubs as a receipt.

(g) The spoiled ballot envelope shall be returned to the counting center in the precinct can.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-140)

§2-51-85 Punchcard ballots; spoiled ballots; special, general, or special general. (a) In a special, general, or special general, if the voter spoils a ballot and the ballot has not yet been deposited into the ballot box, the precinct official shall issue the voter another ballot.

(b) Before issuing the new ballot, the precinct official shall:

- (1) Give the voter a utility envelope and ask the voter to place the spoiled ballot in the utility envelope and seal the envelope;
- (2) Determine which alpha ballot card was spoiled by using the remaining ballot cards, without looking at the voted portion of the ballots;
- (3) Receive the utility envelope and check that the correct number of ballots are enclosed through the cut on the envelope. Then write "spoiled (alpha) ballot" across the face of the utility envelope, and sign the official's name. Example: If the voter spoils the "B" ballot card, the precinct official writes "spoiled B ballot" on the utility envelope;
- (4) Check the pollbook to verify that the voter has been issued ballots;
- (5) Record the stub serial number of the new set of ballots under the stub serial number of the originally issued set of ballots;
- (6) Write "reissued (alpha) ballot" in the remarks column of the pollbook; and
- (7) Have the voter place the voter's initials next to the new stub serial number in the pollbook.

(c) The precinct officials shall, after the above procedures are completed, tear off a new set of ballots. The voter shall be given only the alpha ballot card to replace the spoiled ballot card. The remaining ballots from the new set shall be stapled to the utility envelope and placed in the spoiled ballot envelope.

(d) The precinct chairperson or voter assistance official shall record the incident in the record book.

(e) The spoiled ballot envelope shall be returned to the counting center in the precinct can.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-140)

§2-51-86 Punchcard ballots; collection. (a) The chief election officer, the clerk, or a designated representative may authorize collection of voted ballots:

(1) Before the polls close in order to facilitate the counting of the ballots; and

(2) After the polls close.

(b) Voted ballots from the polling places shall be transported to the counting center in sealed ballot boxes with sealed lid locks by the DC Teams in accordance with procedures established by the chief election officer, clerk, or designated representative.
[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-154)
(Imp: HRS §11-135)

§2-51-87 Punchcard ballots; return of polling place materials. After the polls close on election day, the precinct officials shall follow the procedures for closing the polls. The precinct chairperson or designated representative shall return all of the following materials to the designated supply collection center:

(1) Sealed ballot transport containers containing unissued ballot packets or ballots;

(2) Precinct supply box; and

(3) Other election documents and materials as specified by the chief election officer or clerk.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-154)

§2-51-88 Postponement of elections; natural disaster. (a) The conducting of an election may be postponed in any precinct, district, or county by the chief election officer or the clerk of a county in the case of county elections if:

(1) Flooding, high winds, earthquake, tsunami, volcanic eruption, or other natural disaster has occurred in, or in the proximity of, the precinct, district, or county; and

- (2) Access to polling places are restricted due to:
- (A) Damage to, or closing of, roads;
 - (B) The absence or suspension of public transportation;
 - (C) The absence of electricity, telephone, or other public telecommunications or utilities;
 - (D) Extensive property damage or personal injury throughout the affected area;
 - (E) Damage to a polling place or polling places which endangers the health or safety of voters or precinct workers; or
 - (F) Damage to a polling place or polling places which makes it impracticable for such locations to function as election sites.

(b) An election may be postponed no more than seven calendar days from its scheduled date. The chief election officer, or clerk in the case of county elections, may, subject to applicable law, alter the method or manner of voting or counting to accommodate the conditions which necessitated the postponement. [Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-92.3)

§2-51-89 (Reserved).

SUBCHAPTER 9

VOTE DISPOSITION

Historical note: Chapter 2-51, Subchapter 9, is based substantially upon Chapter 2-35 [Eff 9/13/82; am 7/30/84; am 9/12/88; R SEP 16 1996]

§2-51-90 Paper ballots; counting ballots at precinct. (a) All counting shall be conducted by the precinct officials at the polling place in accordance with HRS §§11-152 and 16-25.

(b) Insofar as the limits of the room in which the voting takes place reasonably allow, no person shall be prevented from attending the counting of the ballots on election day, unless it is necessary to restrict access to preserve the peace.

(c) All tallying shall be done on the official tally sheet, and no one but a precinct official shall be permitted to assist in calling, tallying, or performing any other work involved in counting the votes cast. The precinct officials shall also tally the number of:

- (1) Questionable ballots, as defined in HRS §16-26, which shall be placed in an envelope provided for that purpose; and
- (2) Totally blank ballots.

(d) When tallying is completed, the chairperson, in the presence of at least one precinct official not of the same political party, shall circle the last block containing the last tally mark with a red pen.

- (1) Immediately to the right of the circled block, the chairperson shall record the total number of tally marks including those in that block, and the chairperson and the precinct officials shall affix their initials.
- (2) The total count shown on the tally sheet shall be recorded on the results of votes cast form.
- (3) The precinct officials shall then complete and sign the certification on the tally sheet and the results of votes cast form.

(e) When the precinct officials have ascertained the number of votes given for each candidate and ballot question, they shall make public declaration of the whole number of votes cast, the names of the persons voted for, the ballot questions, and the number of votes for each person and ballot question.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-152, 11-153, 11-154, 16-24 through 16-29)

§2-51-91 Paper ballots; tally sheet; results of votes cast; ballots; and records. (a) The chairperson shall place the official tally sheet and the results of votes cast form in the envelope provided for that purpose, seal the envelope, and complete and sign the certification on the envelope.

(b) Voted ballots shall be placed in envelopes provided for voted ballots. Spoiled, unissued, blank, and questionable ballots shall be kept separate from the voted ballots and placed in envelopes provided for such ballots. The envelopes shall be sealed and placed in the ballot transport containers along with the pollbooks and the ballot inventory and certification

form. The ballot transport containers shall then be sealed and a seal record made.

(c) All other polling place materials shall be returned to the container in which they were received.

(d) The chairperson, accompanied by at least one precinct official not of the same political party, shall deliver to the sending official (the chief election officer, clerk, or designated representative) the envelope containing the tally sheet, the results of votes cast form, the ballot transport containers, and other polling place materials.

(e) On the islands of Molokai, Lanai, and Niihau, the envelope containing the tally sheet and the results of votes cast form shall be transported by the method and schedule determined by the sending official. The ballot transport containers and other polling place materials shall be delivered to the transportation point designated by the sending official and transported by the method and schedule determined by the sending official.

(f) Upon receipt of the ballot transport containers, the chief election officer, clerk, or designated representative shall compare the number of ballots returned and the information recorded on the results of votes cast form with the ballot inventory and certification form. Any discrepancy shall be investigated immediately.

(g) Upon receipt of the envelope containing the tally sheet and results of votes cast form, the chief election officer, clerk, or designated representative shall do all of the following:

- (1) Compare the totals for each candidate or ballot question on the tally sheets with the number of tally marks for the respective candidate or ballot question on the same sheets. If there is a discrepancy, the incorrect totals shall be crossed out, the correct total immediately entered above the total crossed out, and each corrected entry initialed;
- (2) Compare the totals for each candidate or ballot question on the tally sheet with those for the respective candidate or ballot question on the results of votes cast form. If there is a discrepancy, the receiving official shall cross out the incorrect total on the results of votes cast form, enter the

- correct total immediately above the total crossed out, and initial the corrected entry;
- (3) Immediately upon completion of the comparison in paragraphs (1) and (2), securely lock the tally sheet or sheets in metal containers during the entire period of the count;
 - (4) Record all votes for the candidates and the ballot questions from the results of votes cast form on a tabulation sheet;
 - (5) Seal the metal containers holding the tally sheets immediately after the count is complete and keep the containers sealed until the results of the election have been certified. The containers may be unsealed and opened by the chief election officer, clerk, or designated representative prior to certification, but only in the presence of official observers not from the same political party and shall be immediately sealed thereafter; and
 - (6) Maintain a seal record for the containers holding the tally sheets.
- (h) The chief election officer, clerk, or designated representative shall allow the appointed official observers to be present during the compiling procedure, space and facilities permitting. Under no circumstances shall the official observers be allowed to impede the counting procedure or handle the tally sheets or results of votes cast form.
- (i) In county elections, the clerk or designated representative may transport the tally sheets and the results of votes cast forms to the chief election officer in accordance with a system and schedule determined by the chief election officer or designated representative.
- [Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-154, 16-29) (Imp: HRS §§11-153, 11-154, 11-155)

§2-51-92 Punchcard ballots; counting center procedures. (a) The handling of ballots shall be observed at the counting center by at least two official observers not of the same political party or organizational affiliation, except in cases where technical knowledge and skill is required when authorized by the chief election officer, clerk, or designated representative.

(b) The official observers shall observe the processes within the counting center, and shall report any changes or deviations from the rules or procedures to the chief election officer, clerk, or designated representative. The observers shall also participate in all certifications that may be required by the chief election officer, clerk, or designated representative.

(c) No person shall be permitted into the counting center without the authorization of the chief election officer, clerk, or designated representative.

(d) There shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a ballot question prior to the closing of the polls as specified in HRS §11-131.

(e) If a computer becomes inoperative, the chief election officer, clerk, or designated representatives shall evaluate and determine the extent of the malfunction. Provisions for backup procedures shall be available and may be put into effect. All tests and operational procedures stated in chapter 54 of these rules shall apply to any standby computer used.

(f) After all ballots are counted, the computer ballot counting programs, the logic and accuracy tests and test results, the election results, and the voted ballots shall be sealed in containers or cabinets. Subsequent counting tests may be conducted by the chief election officer, clerk, or designated representative in accordance with established procedures. The containers or cabinets shall be sealed and stored for twenty-two months in accordance with federal law. [Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-154, 16-44) (Imp: HRS §§16-2, 16-41 through 16-45)

Historical note: §2-51-92 is based substantially upon §2-34-5 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996]; §2-34-5.1 [Eff 9/13/82; am 7/30/84; am and comp 9/12/88; R SEP 16 1996] and §2-35-15 [Eff 9/13/82; am 7/30/84; R SEP 16 1996]

§2-51-93 Punchcard ballots; receipt at counting center. (a) The receiving teams at the counting center shall receive and sign for the sealed ballot boxes and precinct cans for each precinct. The boxes and precinct cans shall be unsealed and opened in accordance with established procedures and in the presence of at least two official observers not of same political party or organizational affiliation.

(b) The ballots in the ballot boxes shall be placed in containers with appropriate district and precinct identification and forwarded to the inspection team.

(c) The contents of the precinct cans shall be forwarded as follows:

- (1) The pollbook and record book shall be forwarded to the pollbook audit team;
- (2) The spoiled ballot envelope shall be forwarded to the counting center manager to be consolidated with the appropriate district and precinct ballots;
- (3) The payroll authorization sheet shall be forwarded to the counting center manager;
- (4) The clerk's envelope containing any RAF forms or unvoted mail absentee ballots shall be forwarded to the counting center manager; and
- (5) Any other contents shall be forwarded to the counting center manager for appropriate action.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 11-154)
(Imp: HRS §§16-2, 16-41 through 16-45)

§2-51-94 Punchcard ballots; inspection of ballots at counting center. The inspection team shall process the ballots as follows:

- (1) Ballots that pass inspection shall be cleaned along the perforated edge and forwarded to the ballot preparation team;
- (2) Defective ballots, such as short, torn, or folded ballots, shall be placed into a control packet to be forwarded to the ballot preparation team;
- (3) The challenged ballot envelope shall be identified, segregated, and forwarded to the counting center manager to await its disposition from the board or state supreme court. The ballot shall be processed pursuant to section 2-51-101;
- (4) All voted mail absentee ballot envelopes, regardless of their condition, shall be forwarded to the counting center manager for absentee ballot processing; and
- (5) The team shall verify that the ballots contained in the ballot card container correspond to the label on the container

designating the district and precinct numbers of the precinct.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§16-2, 16-41 through 16-45)

§2-51-95 Punchcard ballots; preparation of ballots at counting center. (a) The ballot preparation team shall process the ballots or ballot envelopes as follows:

- (1) Ballots cleaned by the inspection team shall be readied for final verification; and
- (2) Any additional defective ballots shall be added to the defective ballots in the control packet to be forwarded to the control packet team for verification.

(b) The ballot preparation team shall make final verification of ballot types for corresponding districts and precincts. The team shall also perform final inspection and place appropriate precinct name and other required control cards with the voted ballots and assemble them in card trays for computer processing.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§16-2, 16-41 through 16-45)

§2-51-96 Punchcard ballots; duplication procedure. (a) The control packet team shall reconcile the number of defective ballots in the control packet with the number indicated on the control packet. The packet shall be sent to the duplication team for duplication.

(b) The duplication team, in the presence of at least two official observers not of the same political party or organizational affiliation, shall prepare a duplicate ballot to replace each defective ballot. Unvoted ballots for duplication and voting devices shall be authorized in the counting center for this purpose.

(c) The duplication team shall prepare a reconciliation of the number of duplicated ballots used to replace the defective ballots. The defective ballots shall be invalid and stored in accordance with subsection (f).

(d) Duplicated ballots shall be returned to the ballot preparation team for final verification.

(e) All valid ballots shall be read and counted by the computer. If, during the computer processing of

the ballots additional defective ballots are rejected, the defective ballots shall be placed in a designated control packet and returned to the control packet team.

(f) After the ballots are counted, the counted ballots and the invalid ballots shall be forwarded to the storage teams to be logged and sealed. The ballots shall be stored in containers or cabinets which shall be sealed. The storage of the ballots and sealing of the cabinets shall be done in the presence of at least two official observers not of the same political party or organizational affiliation.

[Eff and comp SEP 16 1996] (Auth: HRS §§11-4, 16-46)

(Imp: HRS §§16-2, 16-41 through 16-46)

§2-51-97 Punchcard ballots; auditing procedure.

(a) The chief election officer or the clerk shall conduct a manual audit on election day during the ballot tabulating to verify the results of the election. A manual audit may also be conducted after election day.

- (1) The manual audit shall be conducted by the manual audit team which shall contain at least four members, provided that no team shall have members of only one political party. There may be more than one team per counting center.
- (2) The manual audit team may follow the following guidelines of precincts to audit: at least ten percent of the total precincts; at least one precinct from the early pick-up and at least one precinct from the final pick-up; at least one large precinct and at least one small precinct; and at least one precinct with a statewide, a countywide, or a districtwide contest. Reasonable permutations of these requirements shall be allowed for counties with fewer than 30 precincts.
- (3) The manual audit team shall select the voting precincts to audit.
- (4) Except for the members of the manual audit team, no person shall be permitted to witness the audit without the authorization of the chief election officer, clerk, or designated representative. The area in which the audit is conducted shall be kept secure.

- (5) Observers may request to conduct a manual audit.
- (6) Whenever the ballots are removed from or placed in the ballot cabinets, the handling of the ballots shall be witnessed by not less than two members of the manual audit team not of the same political party or organizational affiliation.
- (7) The manual audit shall be concluded when a majority of the team members so decide.
- (8) The manual audit shall not be considered a recount pursuant to the election contest provisions of the law; provided that the results of the audit shall be filed in the office of the chief election officer and shall be considered a public record.
- (b) The chief election officer or the clerk shall conduct a pollbook audit to verify the number of precinct ballots received in the counting center. The pollbook audit shall be conducted prior to the end of the contest period stated in HRS §11-173.5, in the case of a primary, or special primary election, or HRS §11-174.5, in the case of a general, special general, or special election.
 - (1) The pollbook audit team shall count the number of signatures in each pollbook and compare the number with the precinct turnout as produced by the computer to determine overages and underages.
 - (2) An overage shall exist when the number for the precinct turnout, according to the computer, is greater than the turnout the pollbook indicates. If the precinct turnout, according to the computer, is less than the turnout the pollbook indicates this shall constitute an underage.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-4, 11-153, 16-2)

§2-51-98 Punchcard ballots; counting ballots at polling place. If the chief election officer, the clerk, or designated representative determines that prompt processing of voted ballots for a specific precinct with the use of punchcard counting equipment would be impaired because of distance or other factors, the chief election officer, the clerk, or designated representative may direct the precinct chairperson to

count the voted ballots at the precinct, using the procedures set forth for a paper ballot voting system in sections 2-51-90 and 2-51-91.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-4, 16-21 through 16-29)

§2-51-99 Direct recording electronic. [Reserved]

§2-51-100 [Reserved]

§2-51-101 Challenged voter's ballot; disposition of at counting center. (a) The board of registration shall notify the clerk and the counting center manager of the disposition of each challenge immediately after the board makes its decision provided that if an appeal is made to the supreme court, or the opportunity for an appeal exists, pursuant to HRS §11-51, the ballot shall remain in the sealed envelope to be counted or rejected in accordance with the supreme court's ruling.

(b) If the board rules that a challenged voter is not entitled to vote and the opportunity for appeal to the supreme court has elapsed, pursuant to HRS §11-51, the voted ballot shall remain in the unopened envelope and shall be stored as provided by law.

(c) If the board rules that a challenged voter is entitled to vote and the opportunity for appeal to the supreme court has elapsed, pursuant to HRS §11-51, the counting center manager shall instruct the ballot preparation team to prepare the ballot for processing. The ballot shall be inserted into the ballot deck of the appropriate precinct using procedures established by the chief election officer. In all cases, the secrecy of the ballot must be preserved. If the secrecy of the ballot cannot be preserved, the challenged ballot shall not be processed except to break a tie vote, as ordered by the supreme court. It shall be disposed of as provided by law.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-25, 11-54)

Historical note: §2-51-101 is based substantially upon §2-37-2 [Eff 9/13/82; R SEP 16 1996]

§2-51-102 Election results; certification of.

The chief election officer or clerk, as the case may require, shall prepare a certified statement of the results of votes cast for the election.

- (1) In the case of a county primary, county general, county special primary, county special general, or county special election, the clerk shall send a copy of the certified statement to the chief election officer and to the county committee of each political party.
- (2) In the case of a state primary or special primary election, the chief election officer shall send a copy of the certified statement to the state committees of each political party.
- (3) In the case of a combined state and county primary or special primary election, the chief election officer shall send a copy of the certified statement to the clerk and to the state and county committees of each political party.
- (4) In the case of a state general, special general, or special election, the chief election officer shall send a copy of the certified statement to the United States Congress, if there is a congressional election; to the Hawaii state legislature, if there is a state legislative race; and to the state committee of each political party.
- (5) In the case of a combined state and county general, special general, or special election, the chief election officer shall send a copy of the results to the United States Congress, if there is a congressional election; to the Hawaii state legislature, if there is a state legislative race; to the clerks, if there is a county race; and to the state and county committees of each political party.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-155)

§§2-51-103 to 2-51-109 (Reserved).

SUBCHAPTER 10

PRESIDENTIAL PETITIONS

§2-51-110 Presidential petitions; issuing. (a)

Any group wishing to petition to place the names of candidates for president and vice president on the State's general election ballots, pursuant to HRS §11-113, shall submit a notarized statement of intent from the presidential and vice presidential candidates to the chief election officer before receiving the petition forms. The statement of each candidate shall be substantially in the following form:

- (1) I, _____
(name of candidate), hereby declare that I
intend to be a candidate for

(president or vice president) of the United
States on the _____ (year) general
election ballot in the State of Hawaii; and
- (2) Shall be subscribed and sworn or affirmed to
before a notary public.

(b) The party or group shall also provide basic information to the chief election officer by filling out an application form before receiving the petition forms. The group shall provide the following on the application form:

- (1) The name of a contact person to be responsible for the petition;
- (2) The group's telephone numbers and mailing address;
- (3) The year of the election for which the petition is being requested; and
- (4) The party or group name and the names of the candidates for president and vice president.

(c) Before issuing the petition forms, the chief election officer shall place on the petition the names of the presidential and vice presidential candidates and the party or group name. A petition will not be issued unless the chief election officer receives the notarized statement of intent from the presidential candidate and the vice presidential candidate.

(d) The petition shall be void upon the fifty-ninth day prior to the general election for which it is issued.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-113)

§2-51-111 Presidential petitions; withdrawal of signatures. (a) Any voter who signed a presidential petition pursuant to HRS §11-113, may withdraw the voter's signature by submitting a written notice to the chief election officer any time prior to the filing of the petition. The written notice to withdraw shall contain the following:

- (1) The date of the notice;
- (2) The name, social security number, address, and date of birth of the voter requesting removal of the signature from the petition;
- (3) The signature of the voter under the name in which the voter is registered to vote;
- (4) The name of the presidential petition from which the signature should be removed; and
- (5) A statement that the voter wishes to withdraw the voter's signature from the petition.

(b) Upon receipt of a written notice to withdraw containing the information provided in subsection (a) prior to the filing of the petition, the chief election officer shall notify the group or individuals to whom the petition was issued that the signature of the voter will not be counted.

(c) Upon receipt of the petition for filing, the chief election officer shall:

- (1) Verify that the signature on the written notice to withdraw corresponds with the voter's signature on the petition; and
- (2) If the signature corresponds, cross out the voter's signature in black ink and indicate that the voter has withdrawn the voter's signature.

(d) If the written notice to withdraw is received by the chief election officer after the petition has been filed, then the chief election officer shall notify the voter, in writing, that the voter's notice was not received in time and was not accepted.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-6, 11-113)

§2-51-112 Presidential petitions; qualification of signatories. To determine whether an individual is qualified to sign a presidential petition, the chief election officer or designated representative shall determine whether the signatory is an active registered voter by checking the statewide voter registration

system; provided that a properly executed voter registration form shall be effective if it is received by the clerk and the affiant's name has been entered in the statewide voter registration system on or before the date on which the petition is filed.

[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-113)

§2-51-113 Presidential petitions; verification of signatories. (a) Upon receipt of a presidential petition, the chief election officer or designated representative shall verify within ten business days whether the petition has met the requirements of HRS §11-113.

(b) Upon receipt of a petition containing at least the minimum number of signatures required pursuant to HRS §11-113(c)(2)(b), the chief election officer or designated representative shall verify whether each voter signing the petition is a registered voter in Hawaii by verifying whether the voter's social security number appears in the statewide voter registration system as an active registered voter.

- (1) If the social security number contained on the petition exists as an active registered voter in the statewide voter registration system, then the signatory shall be counted;
- (2) If the social security number contained on the petition is not the number of an active registered voter in the statewide voter registration system, then the signatory shall be not counted;
- (3) If there are duplicate signatures on a presidential petition, and the social security number is that of an active registered voter, then the signatory shall be counted once; and
- (4) If the voter's social security number and name are not legible, then the signatory may not be counted.

(c) A voter who withdraws the voter's signature from the petition in accordance with section 2-51-111 shall not be verified or counted.

(d) The chief election officer or designated representative may verify that the voter's signature on the petition corresponds with the voter's signature on the voter's registration form. If the signature does not correspond, then the voter's signature on the

petition shall not be counted. The chief election officer or designated representative shall indicate on the petition that the voter's signature is invalid because it does not match the signature on the voter's registration form.

(e) The chief election officer or designated representative may verify only as many signatories as needed to ensure that the presidential and vice presidential candidates has met the signature requirements of HRS §11-113.
[Eff and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-113)

§§2-51-114 to 2-51-129 (Reserved)